

ESTTA Tracking number: **ESTTA715347**

Filing date: **12/17/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91216077
Party	Defendant Future Payment Technologies, L.P.
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Submission	Motion to Extend
Filer's Name	Jason R. Fulmer
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Signature	/Jason R. Fulmer/
Date	12/17/2015
Attachments	FPT-Gardere01 7414523_2 2015-12-17 FPT_s Motion to Extend MSJ Re- sponse Deadline.PDF(114057 bytes )

<sup>1</sup> The TTAB Rules provide that “[i]f no motion under Rule 56(f) is filed, a brief in response to the motion for summary judgment shall be filed within thirty days from the date of service of the motion unless the time is extended by stipulation of the parties approved by the Board, or upon motion granted by the Board, or upon order of the Board.” 37 C.F.R § 2.127(e)(1).

2. Simply put, the issues involved in the Federal Court Case encompass the issues before the Board: whether FPT's use of the "FUTURE PAYTECH" or "FUTURE PAYMENT TECHNOLOGIES" marks is likely to cause confusion, and RevenueWire's alleged rights in its "FUTUREPAY" mark.

3. In light of the Federal Court Case and its overlapping issues with these proceedings, on November 30, 2015, FPT filed with the Board a motion to suspend for civil action ("Motion to Suspend"). In its Motion to Suspend, FPT requests that the Board suspend these proceedings pending resolution of the Federal Court Case. RevenueWire opposes the Motion to Suspend.

4. On December 7, 2015, RevenueWire filed a motion for summary judgment ("Motion for Summary Judgment"). FPT's response to the Motion for Summary Judgment is due on January 7, 2016.

5. If the Board grants FPT's Motion to Suspend, it may not rule on RevenueWire's Motion for Summary Judgment. However, until the Board rules on the Motion to Suspend, it is unclear whether the Board will consider RevenueWire's Motion for Summary Judgment. This requires FPT to prepare a response to the Motion for Summary Judgment.

6. FPT will spend considerable time preparing its response. FPT would be able to avoid this expense if the Board grants the Motion to Suspend. However, in the meantime, it must assume the deadline to respond to the Motion for Summary Judgment remains January 7, 2016.

7. So, FPT seeks an extension of FPT's deadline to respond to the Motion for Summary Judgment to allow time for the Board to decide the Motion to Suspend. This will save FPT from expending resources responding to a motion which may end up being stayed anyway pending the outcome of the Federal Court Case. If the Board denies the Motion to Suspend, FPT will proceed with a response.

8. In closing, FPT requests: (i) that the Board extend FPT's deadline to thirty days after any ruling denying the Motion to Suspend and, (ii) alternatively, if the Board grants the Motion to Suspend, that the Board extend FPT's deadline to thirty days after the Board resumes the opposition proceedings, if at all.

9. Counsel for FPT has consulted with counsel for RevenueWire, and RevenueWire has indicated that it is opposed to this motion.

10. FPT requests a telephone conference to resolve this motion at the earliest convenience of the Board.

Date: December 17, 2015

Respectfully submitted,

/s/ Peter L. Loh

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**ATTORNEYS FOR APPLICANT  
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**CERTIFICATE OF CONFERENCE**

On December 16, 2015, counsel for Applicant conferred with counsel for Opposer regarding the relief requested in this motion. On December 17, 2015, counsel indicated that Opposer opposed this motion.

/s/ Peter L. Loh  
Peter Loh

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel for Opposer as indicated below on December 17, 2015.

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/s/ Peter L. Loh  
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